



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

APR 28 2015

Stephen Roberts, Esq.
K&L Gates LLP
1601 K Street, N.W.
Washington, DC 20006

RE: MUR 6868
Vincent Harris
Harris Media, LLC

Dear Mr. Roberts:

On April 21, 2015, the Federal Election Commission reviewed the allegations in your complaint dated September 10, 2014, and found that on the basis of the information provided in your complaint, and information provided by Vincent Harris and Harris Media, LLC ("Harris Media"), there is no reason to believe that Harris Media violated 52 U.S.C. § 30124(a) (formerly 2 U.S.C. § 441h(a)). Accordingly, on April 21, 2015, the Commission closed the file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which more fully explains the Commission's finding, is enclosed.

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The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8) (formerly 2 U.S.C. § 437g(a)(8)).

Sincerely,

Daniel A. Petalas
Associate General Counsel for Enforcement



BY: Mark Allen
Acting Assistant General Counsel

Enclosure
Factual and Legal Analysis

UNCLASSIFIED

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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4
5 RESPONDENTS: Vincent Harris MUR: 6868
6 Harris Media, LLC
7
8

9 **I. INTRODUCTION**

10 This matter was generated by a Complaint alleging Vincent Harris and Harris Media,
11 LLC (collectively "Harris Media" or "Respondents") fraudulently misrepresented the Committee
12 to Elect Vance McAllister ("Committee") in connection with its website, Twitter feed, and
13 YouTube channel.¹ See 52 U.S.C. § 30124 (formerly 2 U.S.C. § 441h) and 11 C.F.R. § 110.16.
14 As discussed below, because the available information does not indicate that Respondents
15 fraudulently misrepresented themselves as acting on behalf of another candidate on a matter
16 damaging to McAllister, the Commission finds no reason to believe that Respondents violated
17 52 U.S.C. § 30124(a) (formerly 2 U.S.C. § 441h(a)).

18 **II. FACTUAL BACKGROUND**

19 Vance McAllister was a candidate for the U.S. House of Representatives from
20 Louisiana's Fifth Congressional District in a 2013 special election and during the 2014 election
21 cycle.² The Committee is McAllister's principal campaign committee. During the 2013 special

¹ The Complainant is outside counsel to the Committee to Elect Vance McAllister. See Compl. at 1 (Sept. 11, 2014).

² McAllister won the November 16, 2013, special election to fill the remainder of the term of Representative Rodney Alexander, who resigned his seat. McAllister finished fourth in the primary election on November 4, 2014, and finished his term January 3, 2015.

1 election, the Committee used Harris Media as a vendor.³ Sometime after the November 16,
2 2013, special election, the Committee and Harris Media disagreed whether the Committee owed
3 Harris Media additional fees for its services. Compl. at 2; Harris Media Response ("Resp.") at 1
4 (Oct. 9, 2014). Both the Complaint and Response acknowledge that Harris Media, which had
5 control over the Committee's social media accounts, refused to transfer account access for these
6 services to McAllister until Harris Media received what it believed to be full payment for the
7 work it had done for the Committee. Compl. at 2, 3; Resp. at 2.

8 The Committee requested that Harris Media relinquish control of the accounts in a series
9 of emails dated August 27, September 5, and September 8, 2014, as well as during a telephone
10 conversation on September 3, 2014.⁴ Compl. at 2. In these communications, the Committee
11 alleged that Harris Media had engaged in "unauthorized communications and requested that
12 [Harris] cease fraudulently misrepresenting his communications as the candidate's." *Id.* The
13 Complaint asserts that "a federal candidate's own inability to control the message it is presumed
14 to be making is inherently damaging," and the contrast between Harris Media's "unauthorized
15 communications" and McAllister's new 2014 website and Twitter feed might confuse voters. *Id.*
16 at 3-4.

³ Compl. at 1. The Committee's disclosure reports identify four payments to Harris Media for that election: \$1,030.32 on September 10, 2013, for "Website Domain"; \$4,000.00 on November 18, 2013, for "Web Design & Development"; \$8,616.94 on November 18, 2013 for "Run Off GOTV Advertising"; and \$303.96 on April 12, 2014, for "Online Fundraising Applications." See Amended 2013 12-Day Pre-Special Report (Dec. 12, 2013) at 15, Amended 2013 30-Day Post-Runoff Report (Aug. 8, 2014) at 45, 46, and Amended 2014 July Quarterly Report (Aug. 8, 2014) at 14.

⁴ The Committee's Amended 2014 July Quarterly Report reflects an additional payment of \$15 to Harris Media for "Website Maintenance" made on April 12, 2014, in connection with the 2014 primary election. *Id.* at 14. As such, it appears that Harris Media was still providing services to the Committee after the November 16, 2013, special election.

1 Harris Media states that the content on the website and social media accounts “remained
2 static since the November 2013 special election, with no new content having been added or
3 transmitted, and with all existing content having been prepared for, approved and authorized by
4 McAllister.” Resp. at 2. Harris Media says it removed the website
5 www.mcallisterforcongress.com on September 8, 2014, and “subsequently transferred the login
6 information and passwords for the website and social media sites to McAllister.” Resp. at 2.
7 Harris Media states that these actions reflected an attempt to resolve the matter with McAllister,
8 not a recognition of the Complaint’s alleged violation of the Act.⁵ *Id.*

9 III. LEGAL ANALYSIS

10 The Act prohibits federal candidates and their employees or agents from fraudulently
11 misrepresenting themselves, or any other organization under the candidate’s control, as speaking
12 or otherwise acting on behalf of any other candidate or political party on a matter that is
13 damaging to such other candidate or party. 52 U.S.C. § 30124(a)(1) (formerly 2 U.S.C.
14 § 441h(a)(1)); 11 C.F.R. § 110.16(a)(1).

15 Based on the available information, there is no reason to believe Respondents violated
16 § 30124(a). First, the Complaint asserts that Harris Media is an agent of a federal candidate for
17 purposes of § 30124(a) liability because it provided consulting services to the campaign
18 committees of candidates in other states, Senator Mitch McConnell and Representative Jackie

⁵ The Committee disclosed a \$5,000 debt owed to Harris Media during 2014, *see, e.g.*, 2014 April Quarterly Report (Apr. 15, 2014) at 37, 2014 October Quarterly Report (Oct. 15, 2014) at 53, but the Committee’s 2014 30-Day Post-General Report reveals a \$0 debt balance with an explanation on its “FEC Miscellaneous Text Related to a Report, Schedule or Itemization,” noting that the “Previous debt amount of \$5,000 to Harris Media, LLC has been determined by both parties to not be due. No inkind contribution results from removal of debt.” *See* 2014 30-Day Post-General Report (Dec. 4, 2014) at 50, 51. It is unclear whether this debt and the disputed monies identified in this matter are one in the same.

Walorski.⁶ Compl. at 3. However, the Complaint does not allege, and the available information does not indicate, that Harris Media was acting as an agent of McConnell or Walorski or any other “candidate for Federal office” when it refused to grant the Committee access to its Internet accounts and thereby allegedly caused damage to McAllister.⁷

Second, the alleged activity in this matter does not rise to the level of “fraudulent misrepresentation.” McAllister approved and authorized the 2013 materials under Harris Media’s control, and the Complaint does not allege, and the available information does not suggest, that Harris Media changed any of the material. The information available indicates Harris Media withheld access to the Committee’s website and social media accounts only as leverage in a contract dispute, which seemingly was resolved when Harris Media returned access to the Committee after the Complaint was filed.

Accordingly, the Commission finds no reason to believe that Vincent Harris or Harris Media LLC violated 52 U.S.C. § 30124(a) (formerly 2 U.S.C. § 441h(a)).

⁶ McConnell is a U.S. Senator from Kentucky; Walorski is a U.S. Representative from Indiana’s Second District.

⁷ One of McAllister’s opponents in the 2014 election, Zach Dasher, also used Harris Media as a vendor. *See, e.g.,* Friends of Zach Dasher 2014 October Quarterly Report (Oct. 15, 2014) at 85 (\$10,881.64 on August 29, 2014, for “Online Advertising”).